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COMMITTEE ON APPLICATIONS FOR REVIEW OF
ADMINISTRATIVE TRIBUNAL JUDGEMENTS
Forty-sixth session

INFORMATION CIRCULAR

I. DATE AND PLACE OF MEETING

1. The 1st meeting of the forty-sixth session of the Committee on Applications for Review of Administrative Tribunal Judgements will take place at United Nations Headquarters on Tuesday, 27 February 1996. The exact time and place of the meeting will be announced in the Journal of the United Nations. The provisional agenda for the 1st meeting is to be found in document A/AC.86/R.291.

II. MEMBERSHIP OF THE COMMITTEE

2. Under article 11 of the statute of the United Nations Administrative Tribunal (see General Assembly resolution 957 (X) of 8 November 1955), the Committee is composed of Member States, the representatives of which have served on the General Committee of the most recent regular session of the General Assembly. The present membership of the Committee therefore comprises the following 28 Member States: Albania, Algeria, Belgium, Bhutan, Bolivia, China, Congo, Costa Rica, Denmark, France, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Mali, Mauritania, Mauritius, Mongolia, Namibia, Nicaragua, Portugal, Russian Federation, Saint Lucia, Thailand, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen.

III. PREVIOUS MEETINGS OF THE COMMITTEE AND DECISIONS TAKEN

3. Information concerning previous meetings of the Committee and decisions of the Committee at its first to forty-fifth sessions is to be found in documents A/AC.86/INF/1-44.

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4. At its forty-fifth session, held on 13 and 14 July 1995, the Committee considered the following applications:

(a) Application of Mr. Vorobiev for a review of Administrative Tribunal Judgement No. 666 - Vorobiev v. the Secretary-General of the United Nations;

(b) Application of Ms. Burtis for a review of Administrative Tribunal Judgement No. 672 - Burtis v. the Secretary-General of the United Nations;

(c) Application of Mr. Cure for a review of Administrative Tribunal Judgement No. 687 - Cure v. the Secretary-General of the United Nations.

5. After consideration of the aforementioned applications, the Committee decided, respectively, that there was not a substantial basis for the applications of Mr. Vorobiev, Ms. Burtis and Mr. Cure under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgements Nos. 666, 672 and 687.

6. The decisions of the Committee at its forty-fifth session were formally announced at the meeting of the Committee held in public on 14 July 1995. They are contained in document A/AC.86/55.

IV. PURPOSE OF THE SESSION

A. Application received from Ms. Tasnim Beg

7. On 27 July 1995, the United Nations Administrative Tribunal rendered Judgement No. 702 in the case of Beg v. the Secretary-General of the United Nations. The official text of the judgement in English and French is to be found in document AT/DEC/702. The judgement was communicated to the parties on 16 October 1995.

8. The application from Ms. Beg dated 8 November 1995, requesting a review of Judgement No. 702 rendered by the United Nations Administrative Tribunal in the case of Beg v. the Secretary-General of the United Nations was received by the Secretary of the Committee on 15 November 1995.

9. On 23 January 1996, after translation of the application of Ms. Beg into the official languages of the General Assembly, it was communicated in document A/AC.86/R.279 to all members of the Committee as well as to parties to the proceedings before the Administrative Tribunal, together with a copy of Administrative Tribunal Judgement No. 702 (AT/DEC/702). The application had attached to it five annexes which have not been circulated, since such circulation is not provided for in the rules of procedure of the Committee. Those documents may be examined in the office of the Secretary of the Committee (room S-3420I).

10. Comments of the Respondent submitted with respect to the application of Ms. Beg in accordance with article V, paragraph 1, of the rules of procedure of the Committee are contained in document A/AC.86/R.280.

B. Application received from Ms. Cheryl Beth Larsen

11. On 28 July 1995, the United Nations Administrative Tribunal rendered Judgement No. 703 in the case of Larsen v. the Secretary-General of the United Nations. The official text of the judgement in English and French is to be found in document AT/DEC/703. The judgement was communicated to the parties on 16 October 1995.

12. The application from Ms. Larsen dated 14 November 1995, requesting a review of Judgement No. 703 rendered by the United Nations Administrative Tribunal in the case of Larsen v. the Secretary-General of the United Nations was received by the Secretary of the Committee on 16 November 1995.

13. On 23 January 1996, after translation of the application of Ms. Larsen into the official languages of the General Assembly, it was communicated in document A/AC.86/R.281 to all members of the Committee as well as to parties to the proceedings before the Administrative Tribunal, together with a copy of Administrative Tribunal Judgement No. 703 (AT/DEC/703). The application had attached to it one annex which has not been circulated, since such circulation is not provided for in the rules of procedure of the Committee. That document may be examined in the office of the Secretary of the Committee (room S-3420I).

14. Comments of the Respondent submitted with respect to the application of Ms. Larsen in accordance with article V, paragraph 1, of the rules of procedure of the Committee are contained in document A/AC.86/R.282.

C. Application received from Khalidi et al.

15. On 28 July 1995, the United Nations Administrative Tribunal rendered Judgement No. 710 in the case of Khalidi et al. v. the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The official text of the judgement in English and French is to be found in document AT/DEC/710. The judgement was communicated to the parties on 1 November 1995.

16. The application from Khalidi et al. dated 22 November 1995, requesting a review of Judgement No. 710 rendered by the United Nations Administrative Tribunal in the case of Khalidi et al. v. the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East was received by the Secretary of the Committee on 4 December 1995. The application of Khalidi et al. did not comply with the requirements set forth in article II, paragraph 2, of the rules of procedure of the Committee. Therefore, as provided for in article III, paragraph 2, and article XIII, paragraph 1 (a), of the rules of procedure of the Committee, on 12 December 1995 the application was returned to the applicants with a request that it be corrected and resubmitted within three weeks from the date of its return. A corrected application of

Khalidi et al. dated 20 December 1995 was received by the Secretary of the Committee on 2 January 1996.

17. On 23 January 1996, after translation of the application of Khalidi et al. into the official languages of the General Assembly, it was communicated in document A/AC.86/R.283 to all members of the Committee as well as to parties to the proceedings before the Administrative Tribunal, together with a copy of Administrative Tribunal Judgement No. 710 (AT/DEC/710). The application of Khalidi et al. had attached to it three annexes which have not been circulated, since such circulation is not provided for in the rules of procedure of the Committee. Those documents may be examined in the office of the Secretary of the Committee (room S-3420I).

18. Comments of the Respondent submitted with respect to the application of Khalidi et al. in accordance with article V, paragraph 1, of the rules of procedure of the Committee are contained in document A/AC.86/R.284.

D. Application received from Mr. Hasan Mohd Museibes

19. On 28 July 1995, the United Nations Administrative Tribunal rendered Judgement No. 717 in the case of Museibes v. the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The official text of the judgement in English and French is to be found in document AT/DEC/717. The judgement was communicated to the parties on 17 October 1995.

20. The application from Mr. Museibes dated 16 November 1995, requesting a review of Judgement No. 717 rendered by the United Nations Administrative Tribunal in the case of Museibes v. the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees, was received by the Secretary of the Committee on 10 December 1995.

21. On 23 January 1996, after translation of the application of Mr. Museibes into the official languages of the General Assembly, it was communicated in document A/AC.86/R.285 to all members of the Committee as well as to parties to the proceedings before the Administrative Tribunal, together with a copy of Administrative Tribunal Judgement No. 717 (AT/DEC/717). The application had attached to it nine annexes which have not been circulated, since such circulation is not provided for in the rules of procedure of the Committee. Those documents may be examined in the office of the Secretary of the Committee (room S-3420I).

22. Comments of the Respondent submitted with respect to the application of Mr. Museibes in accordance with article V, paragraph 1, of the rules of procedure of the Committee are contained in document A/AC.86/R.286.

E. Application received from Khadra et al.

23. On 28 July 1995, the United Nations Administrative Tribunal rendered Judgement No. 716 in the case of Khadra, Fahoum, Nourallah, Zeidan and Khalaf v.

the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East. The official text of the judgement in English and French is to be found in document AT/DEC/716. The judgement was communicated to the parties on 6 November 1995.

24. The application from Khadra et al. dated 20 December 1995, requesting a review of Judgement No. 716 rendered by the United Nations Administrative Tribunal in the case of Khadra, Fahoum, Nourallah, Zeidan and Khalaf v. the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees, was received by the Secretary of the Committee on 2 January 1996.

25. On 23 January 1996, after translation of the application of Khadra et al. into the official languages of the General Assembly, it was communicated in document A/AC.86/R.287 to all members of the Committee as well as to parties to the proceedings before the Administrative Tribunal, together with a copy of Administrative Tribunal Judgement No. 716 (AT/DEC/716). It should be mentioned that the application had attached to it three annexes which have not been circulated, since such circulation is not provided for in the rules of procedure of the Committee. These documents may be examined in the office of the Secretary of the Committee (room S-3420I).

26. Comments of the Respondent submitted with respect to the application of Khadra et al. in accordance with article V, paragraph 1, of the rules of procedure of the Committee are contained in document A/AC.86/R.288.

F. Application received from the Secretary-General of the International Maritime Organization

27. On 21 July 1995, the United Nations Administrative Tribunal rendered Judgement No. 695 in the case of Burnett, Fournigault, Gil, Lopez and Nogales v. the Secretary-General of the International Maritime Organization. The official text of the judgement in English and French is to be found in document AT/DEC/695. The judgement was communicated to the parties on 16 October 1995.

28. The application from the Secretary-General of the International Maritime Organization dated 14 December 1995, requesting a review of Judgement No. 695 rendered by the United Nations Administrative Tribunal in the case of Burnett, Fournigault, Gil, Lopez and Nogales v. the Secretary-General of the International Maritime Organization, was received by the Secretary of the Committee on 15 December 1995.

29. On 23 January 1996, after translation of the application of the Secretary-General of the International Maritime Organization into the official languages of the General Assembly, it was communicated in document A/AC.86/R.289 to all members of the Committee as well as to parties to the proceedings before the Administrative Tribunal, together with a copy of Administrative Tribunal Judgement No. 695 (AT/DEC/695). The application had attached to it five annexes which have not been circulated, since such circulation is not provided for in the rules of procedure of the Committee. Those documents may be examined in the office of the Secretary of the Committee (room S-3420I).

30. Comments of the other party to the proceedings before the Administrative Tribunal, submitted with respect to the application of the Secretary-General of the International Maritime Organization in accordance with article V, paragraph 1, of the rules of procedure of the Committee, are contained in document A/AC.86/R.290.

31. In connection with the application of the Secretary-General of the International Maritime Organization, the following additional information contained in article 14 of the statute of the United Nations Administrative Tribunal and articles 1 and 2 of the Special Agreement between the United Nations and the Intergovernmental Maritime Consultative Organization Extending the Competence of the Administrative Tribunal of the United Nations to the Intergovernmental Maritime Consultative Organization with respect to Applications Alleging Non-observance of Contracts of Employment or of the Terms of Appointment of Staff Members of the Intergovernmental Maritime Consultative Organization, of 20 February 1964, is brought to the attention of members of the Committee.

Statute of the United Nations Administrative Tribunal

"Article 14

"The competence of the Tribunal may be extended to any specialized agency brought into relationship with the United Nations in accordance with the provisions of Articles 57 and 63 of the Charter upon the terms established by a special agreement to be made with each such agency by the Secretary-General of the United Nations. Each such special agreement shall provide that the agency concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that agency and shall include, inter alia, provisions concerning the agency's participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal."

1964 Agreement between the United Nations and IMO

"Article 1

"1. The United Nations Administrative Tribunal shall be competent to hear and pass judgement, in accordance with the applicable provisions of its Statute and its Rules, upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the Intergovernmental Maritime Consultative Organization, hereinafter referred to as 'the Organization', or of the terms of appointment of such staff members. The words 'contracts' and 'terms of appointment' shall include all pertinent regulations and rules in force at the time of alleged non-observance including the staff pension regulations. Such applications may be presented by:

(a) Any staff member of the Organization, even though his employment shall have ceased, and any person who has succeeded to a staff member's rights on his death;

(b) Any other person who can show that he is entitled to rights under terms of appointment, as defined above, upon which the staff member could have relied.

"2. In the event of a dispute as to whether the Tribunal has competence, the matter shall be settled by the decision of the Tribunal.

"3. Without prejudice to the provisions of article 7 of the statute of the United Nations Administrative Tribunal, the Tribunal shall be competent to deal with an application notwithstanding that the cause of complaint may have arisen prior to the operative date of this Agreement.

"4. For the purposes of this Agreement, references to the Secretary-General contained in articles 7, 9 and 12 of the statute of the United Nations Administrative Tribunal shall be deemed to refer to the Secretary-General of the Organization and the reference to the United Nations in article 9, paragraph 1, of that statute shall be deemed to mean the Organization.

"Article 2

"1. Subject to the provisions of article 12 of the statute of the Tribunal, the judgements of the Tribunal shall be final and without appeal. Article 11 of the statute of the Tribunal shall not apply to judgements on applications to which article 1 of this Agreement refers.

"2. The Organization shall be bound by the judgements of the Tribunal and shall be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of the Organization.

"3. The archivist of the United Nations Secretariat shall deposit with the Secretary-General of the Organization an original of each judgement pronounced on an application in respect of a staff member of the Organization."

G. General provisions

32. The official dossiers of the Administrative Tribunal in the cases referred to in paragraphs 7 to 31 above are on file with the Secretary of the Committee in room S-3420I and may be examined on request by members of the Committee.

33. Under article 11, paragraph 2, of the statute of the Administrative Tribunal, the Committee shall decide within 30 days from receipt of an application whether or not there is a substantial basis for such application. If the Committee decides that such a basis exists, it shall request an advisory opinion of the International Court of Justice. Under article 11, paragraph 4,

the Committee is authorized by the General Assembly, for the purposes of the article, to request an advisory opinion of the Court. According to the provisions of article VII of the rules of procedure of the Committee, it shall be convened for the consideration of the application no later than 25 days from the date of the receipt of the application. Under article II, paragraph 1 (c), of the same rules, the date of receipt by the Committee of an application is the date two weeks after the copies of the application are dispatched to the members of the Committee by its Secretary.

V. TERMS OF REFERENCE AND RULES OF PROCEDURE

34. The terms of reference of the Committee are contained in article 11 of the statute of the United Nations Administrative Tribunal. That article was added to the statute by the General Assembly in its resolution 957 (X) of 8 November 1955. Its text is as follows:

"Article 11

"1. If a Member State, the Secretary-General or the person in respect of whom a judgement has been rendered by the Tribunal (including anyone who has succeeded to that person's rights on his death) objects to the judgement on the ground that the Tribunal has exceeded its jurisdiction or competence or that the Tribunal has failed to exercise jurisdiction vested in it, or has erred on a question of law relating to the provisions of the Charter of the United Nations, or has committed a fundamental error in procedure which has occasioned a failure of justice, such Member State, the Secretary-General or the person concerned may, within thirty days from the date of the judgement, make a written application to the Committee established by paragraph 4 of this article asking the Committee to request an advisory opinion of the International Court of Justice on the matter.

"2. Within thirty days from the receipt of an application under paragraph 1 of this article, the Committee shall decide whether or not there is a substantial basis for the application. If the Committee decides that such a basis exists, it shall request an advisory opinion of the Court, and the Secretary-General shall arrange to transmit to the Court the views of the person referred to in paragraph 1.

"3. If no application is made under paragraph 1 of this article, or if a decision to request an advisory opinion has not been taken by the Committee, within the periods prescribed in this article, the judgement of the Tribunal shall become final. In any case in which a request has been made for an advisory opinion, the Secretary-General shall either give effect to the opinion of the Court or request the Tribunal to convene specially in order that it shall confirm its original judgement, or give a new judgement, in conformity with the opinion of the Court. If not requested to convene specially, the Tribunal shall at its next session confirm its judgement or bring it into conformity with the opinion of the Court.

"4. For the purpose of this article, a Committee is established and authorized under paragraph 2 of Article 96 of the Charter to request advisory opinions of the Court. The Committee shall be composed of the Member States the representatives of which have served on the General Committee of the most recent regular session of the General Assembly. The Committee shall meet at United Nations Headquarters and shall establish its own rules.

"5. In any case in which award of compensation has been made by the Tribunal in favour of the person concerned and the Committee has requested an advisory opinion under paragraph 2 of this article, the Secretary-General, if satisfied that such person will otherwise be handicapped in protecting his interests, shall within fifteen days of the decision to request an advisory opinion make an advance payment to him of one third of the total amount of compensation awarded by the Tribunal less such termination benefits, if any, as have already been paid. Such advance payment shall be made on condition that, within thirty days of the action of the Tribunal under paragraph 3 of this article, such person shall pay back to the United Nations the amount, if any, by which the advance payment exceeds any sum to which he is entitled in accordance with the opinion of the Court."

35. At its 1st meeting, on 16 October 1956, the Committee adopted its rules of procedure, which were later amended on 25 October 1956, 21 January 1957, 11 December 1974, 16 February 1983 and 30 July 1991. The current text of the rules of procedure of the Committee is contained in document A/AC.86/2/Rev.4.

36. In accordance with article VIII of the rules of procedure of the Committee, all its deliberations, including the adoption of all decisions concerning applications, shall take place in private. The decisions of the Committee and the text of any questions to be addressed to the International Court of Justice, as well as the results of and the participants in any votes taken during the private deliberations, shall be formally announced at a public meeting, at which any member of the Committee may make a statement for the record. As provided in article XII of the rules of procedure of the Committee, sound recordings shall be prepared and kept of all proceedings of the Committee, in accordance with the practice of the United Nations. If the Committee requests an advisory opinion of the International Court of Justice in respect of an application, the Secretary, in accordance with article XII, paragraph 2, of the rules of procedure, shall prepare and transmit to the Court, to all members of the Committee and to the parties to the proceedings before the Administrative Tribunal, a verbatim record, in English and French, of the proceedings of the Committee in respect of that application, except for those in the private deliberations provided for in article VIII, paragraph 3.

VI. INQUIRIES

37. Inquiries may be addressed to the Secretary of the Committee, room S-3420I, extension 3-5347.